

BEFORE THE OIL CONSERVATION DIVISION
DEPARTMENT OF ENERGY AND MINERALS
STATE OF NEW MEXICO

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Oil Conservation Division
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Santa Fe, NM 87503

APPLICATION OF FULFER OIL & CATTLE
CO., TO STAY ADMINISTRATIVE ORDER
NSP-1871 AND SET FOR HEARING YARBROUGH
OIL L.P. APPLICATION FOR A NON-STANDARD
160 JALMAT GAS POOL SPACING UNIT
COMPRISING THE N1/2SW1/4, SW1/4SW1/4
AND NW1/4SE1/4 OF SECTION 17, TOWNSHIP
23 SOUTH, RANGE 37 EAST, LEA COUNTY,
NEW MEXICO.

No. 13277

AMENDED APPLICATION FOR IMMEDIATE STAY OF ADMINISTRATIVE
ORDER NSP-1871, FOR RECISSION OF THAT ORDER AND REQUEST
FOR PUBLIC HEARING ON THE APPLICATION OF YARBROUGH
OIL L.P. FOR A NON-STANDARD PRORATION UNIT, JALMAT OIL POOL

Fulfer Oil & Cattle Co., P. O. Box 578, Jal, New Mexico, by its attorney, on behalf
of its Application and pursuant to NMSA § 70-2-23 and to Order R-8170-P Rule 4(B)
and 4(E) states:

1. Fulfer Oil & Cattle Co. ("Fulfer") is the operator of two Jalmat Gas wells,
the J. C. Johnson Nos. 3 and 4 on a 280 acres spacing unit within the North ½ of
Section 20, Township 23 South, Range 37 East, NMPM, Lea County, New Mexico. The
No. 4 well was fracture stimulated by Fulfer in March 2004 to achieve and enhance
commercial production from the Jalmat Gas Pool zones.

2. On March 29, 2004, Yarbrough Oil L.P. ("Yarbrough") filed an incomplete
Administrative Application with the Division seeking, *inter alia*, to re-enter and complete
the E. L. Steeler No. 4 well "to Jalmat Yates Gas" and to do so in a non-standard 160
acre proration unit that is not contained entirely within a government survey 160 quarter
section. 120 acres of the proposed unit is in the Southwest Quarter of Section 17,

Township 23 South, Range 37 East and 40 acres is in the Southeast Quarter of that Section.

3. The E. L. Steeler No. 4 is located in Unit M of the said Section 17 and is a direct offset to the Fulfer lease and more specifically to the J. C. Johnson No. 4 Jalmat Gas well operated by Fulfer.

4. The Special Pool Rules for the Jalmat Gas Pool, Rule 4., govern granting of administrative exceptions to certain general rules. Order R-8170-P. That rule provides, *inter alia*, the following:

- A. In the case of applications for non-standard gas spacing units involving partial quarter sections, the applicant must present proof of consent of or notice to all offset operators. Rule 4(C)(1)(b)(ii).
- B. Applications for non-standard gas spacing units shall include seven specified items, six of which are applicable to the subject application; one of those is "proof of compliance with applicable consent or notice provisions of Rule 4." Rule (C)(2)(a)-(g).

The application filed by Yarbrough on March 29, 2004 failed to comply with the above stated rules both as to necessary supporting evidence and as to consent or notice requirements.

5. **Fulfer did not consent to nor was it given notice** of the Application of Yarbrough for the administrative approval of the non-standard proration unit, was denied an opportunity to object and protect its interest in contravention of Rule 4(C)(a) and (b) of the Special Pool Rules for the Jalmat Gas Pool and contrary to NMSA § 70-2-23 and fundamental principles of due process.

6. Had Fulfer been given notice of the Yarbrough administrative application it would have entered its protest in which case the Director would either deny the application or set it for hearing. Rule 4(E).

7. Division Order NSP-1871 issued April 12, 2004 granted the Yarbrough administrative application. In doing so the order purports to "restore" Order R-479 entered 50 years ago in Case No. 703. Order R-479, issued May 27, 1954 authorized Skelly Oil Company to form a non-proration unit in the "Langmont Gas Pool" consisting of other than a legal quarter section; such unit comprises the acreage described in the Yarbrough Application. Order R-479 recited that the gas producing well for the unit was the E. L. Steeler No. 7 (in Unit L) and that owners of adjoining acreage had not objected to formation of the non-standard proration unit.

8. The E. L. Steeler No. 7 well was completed in or about April 1954 and fractured in an open hole section at 3440'-3635', thus commingling the oil production from the Queen interval and the gas production from the Yates and Seven Rivers section. On March 6, 1956, the Oil Conservation Commission directed that henceforth the E. L. Steeler No. 7 well was classified in the Langlie-Mattix Pool and was subject to the rules and regulations governing that pool. Copy of that directive is attached as Exhibit "A" to the original Application.

9. In 1974, the Queen interval of the E. L. Steeler No. 7 well was converted to water injection service for a waterflood project operated by Skelly Oil Company.

10. In or before 1976, the Jalmat Gas intervals in the E. L. Steeler No. 7 well were depleted. The perforations in those gas zone were cement squeezed thereby concluding any Jalmat Gas production from that well and from the non-standard proration unit formed by Order R-749. See Forms C-103 attached as Exhibits "B-1" and "B-2" to the original Application. Thus, 28 years have elapsed since production ended from the Jalmat Gas Pool from the 160 acres in question. No showing was offered by

Yarbrough that the unit is still productive from the subject common source of gas supply.

11. Due to long existing non productivity the proration unit created by Order R-479, terminated and was of no further effect. NMSA 70-2-18C. Such a non-standard 160 acre unit cannot be brought back to existence or "restored" by fiat of an administrative order nor can the due process requirements of notice and hearing be circumvented by such action. The circumstances existing today, not in 1954, including those specified in Rule 4(C)(2) should be considered in determining whether protection of correlative rights and prevention of waste will be served by action on the Yarbrough application.

12. In the alternative, if a current administrative application for a non-standard spacing unit that coincides with a previously created non-standard spacing unit is an exception to the Rule 4. Administrative Exceptions provisions by virtue of Rule 6(B), then as that latter rule requires, Order R-479 should "remain in full force and effect until further notice" as written

13. The application of Yarbrough for administrative approval failed to comply with the Special Pool Rules for the Jalmat Gas Pool, Order R-8170-P. Administrative Order NSP-1871 was improperly and improvidently issued contrary to the terms of applicable rules and regulations of the Division and contrary to law.

WHEREFORE Fulfer pray the orders of the Division as follows:

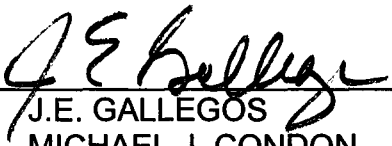
- A. That Administrative Order NSP-1871 be rescinded.
- B. That Yarbrough be required to furnish the evidence required by Rule 4(C)(2) and obtain consents from or give notice to adjacent operators in accordance

with the applicable Division rules of practice concerning its request for formation of the non-standard proration unit.

C. That public hearing be held on the application of Yarbrough and upon the evidence so presented the non-standard proration unit request be denied, or other appropriate order be made that preserves the correlative rights of the affected parties and prevents waste.

Respectfully submitted,

GALLEGOS LAW FIRM, P.C.

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CERTIFICATE OF SERVICE

I hereby certify that I have caused a true and correct copy of the foregoing Amended Application to be served on this 17th day of May, 2004, to the following counsel of record:

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J.E. Gallegos